

Before the  
COPYRIGHT ROYALTY JUDGES  
Washington, D.C.

In the Matter of

Distribution of 2014-17  
Satellite Royalty Funds

Docket No. 16-CRB-0010 SD (2014-2017)

**Allocation Phase Parties' Motion for Leave to Submit Reply**

In connection with their requested distribution of 95% of the remaining 2015-17 Satellite Royalty Funds, the Allocation Phase Parties hereby seek leave to file the Reply to Multigroup Claimants' Response to Notice Requesting Comments attached hereto as Exhibit A. *See* Distribution of 2015-17 Satellite Royalty Funds, 87 Fed. Reg. 14298 (Mar. 14, 2022). As explained in the attached, Multigroup Claimant's comments fail to state a reasonable objection to the requested distribution, and the Judges should therefore order the distribution.

Respectfully submitted,

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Dated: April 27, 2022

# **EXHIBIT A**

Before the  
COPYRIGHT ROYALTY JUDGES  
Washington, D.C.

In the Matter of
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Distribution of 2014-17 Satellite Royalty Funds
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Docket No. 16-CRB-0010 SD (2014-2017)

**Allocation Phase Parties' Reply to Multigroup  
Claimants' Response to Notice Requesting Comments**

The Allocation Phase Parties submit this reply to Multigroup Claimants' ("MGC") Response to Notice Requesting Comments, and Opposition to Motion for Partial Distribution of 2015-17 Satellite Royalties, Dkt. No. 16-CRB-0010-SD (2014-17) (Apr. 13, 2022) ("MGC Comments"). The Allocation Parties have done precisely what the Copyright Act encourages, namely reaching a voluntary settlement of allocation issues. This avoided the need for a multi-week trial. MGC, without basis, now seeks to stymie that settlement by blocking the distribution of funds not in dispute. For the reasons set forth below, the MGC Comments fail to state a reasonable objection to the Allocation Phase Parties' requested distribution of the 2015, 2016, and 2017 satellite royalty funds ("2015-17 Further Distribution"), and the Judges should therefore order the distribution.

MGC's only objection to the Further Distribution is that a 5% reserve ("Reserve Amount") is insufficient to address remaining Distribution Phase controversies concerning the 2015-17 satellite royalties. MGC is incorrect. The Reserve Amount vastly exceeds the proportion of satellite royalty funds that the Judges awarded to MGC in the most recent satellite royalty distribution proceedings, and therefore is sufficient to address any outstanding Distribution Phase

claims MGC asserts.<sup>1</sup> In that proceeding, concerning the 2010-13 satellite royalty funds, MGC's average share of the total funds averaged just 0.7%.<sup>2</sup> MGC's share of the funds in individual years ranged from a low of just 0.15%, in 2013, to a high of 1.37%, in 2010. *Id.*<sup>3</sup> In other words, even if MGC *tripled* its best annual award from the most recent proceeding, its share of the 2015-17 satellite royalty funds would not exceed the Reserve Amount. Moreover, MGC suggests that the reserve does not account for a potential share of the JSC category. As an initial matter, the Judges have never found that MGC is entitled to any share in the JSC category. Furthermore, the proposed reserve is sufficiently large to address any small share that MGC is conceivably claiming.

MGC's claim that it cannot assess the adequacy of the Reserve Amount without first learning the terms of the Allocation Phase Parties' confidential 2014-17 satellite Allocation Phase settlement agreement is also incorrect. In fact, the Judges rejected this argument when MGC previously<sup>4</sup> raised it in opposition to a request for a further distribution of the 2004-09 cable and satellite royalty funds. Order on Motions for Distribution, Nos. 2007-3 CRB CD 2004-2005, 2008-4 CRB CD 2006, 2009-6 CRB CD 2007, 2010-6 CRB CD 2008, 2011-7 CRB CD 2009, 2010-2 CRB SD 2004-2007, 2010-7 CRB SD 2008, 2011-8 CRB SD 2009 (Feb. 17, 2012) ("2004-09 Distribution Order").

To the extent that MGC objects to the 2015-17 Further Distribution by pointing to recent alleged "misallocations and overpayments," this too is mistaken. MGC Comments at 2-3. There

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<sup>1</sup> Other than MGC, only one party, Global Music Rights, LLC ("GMR"), asserts a claim to 2015-17 Satellite Royalties and also did not join the request for the 2015-17 Further Distribution. GMR, however, does not object to the requested distribution.

<sup>2</sup> Compare Order Modifying Order Granting Multigroup Claimants' Third Motion for Final Distribution of 2010-13 Satellite Royalty Funds, Dkt. No. 14-CRB-0011-SD (2010-13) ("2010-13 Satellite Order") (setting forth MGC's shares of 2010-13 satellite royalties) with Year-over-Year Growth in the Copyright Royalty Funds (Mar. 21, 2022), <https://copyright.gov/licensing/copyright-royalty-funds.pdf> ("Growth in Funds Report") (setting forth the total 2010-13 satellite royalty funds).

<sup>3</sup> MGC did not file a claim to the 2014 satellite royalty funds.

<sup>4</sup> At the time MGC previously raised this argument, it referred to itself as "Independent Producers Group."

is no reason to believe—and MGC provides none—that by ordering the 2015-17 Further Distribution, the Judges would increase the likelihood of similar issue arising in the future. And, if such an issue does arise, the Reserve Amount is more than sufficient to address it, because it is substantially larger than each of the “misallocations and overpayments” that MGC cites in its comments. With respect to the 2010-13 satellite royalty funds, for example, the identified overpayment is \$7,320.17, or less than 0.002% of the total 2010-13 satellite royalty funds. *Compare* 2010-13 Satellite Order *with* Growth in Funds Report. With respect to the 2000-03 cable Distribution Phase proceeding, there actually appears to be a net *surplus* in funds remaining on deposit. *See* Order Directing Recalculation of Royalty Allocations in the Devotional Category and Seeking Additional Guidance, Dkt. No. 2008-2 CD 2000-03 (Aug. 28, 2020). Finally, with respect to the 2004-09 and 1999-2009 Distribution Phase proceeding, the “over \$1 Million of overpayments to certain Allocation Phases parties” to which MGC refers represents a small fraction of one percent of the total cable and satellite royalties collected in those years. *Compare* MGC Comments at 3 with Growth in Funds Report. As these small “misallocations and overpayments” do not remotely approach the size of the Reserve Amount, there is no reason to believe that the Reserve Amount would not be sufficient to address such an issue, in the unlikely event that it arises.

In any event, the Allocation Phase Parties are bound by the repayment agreements they signed in connection with each of the prior partial distributions of 2015, 2016, and 2017 satellite royalties, which obligate the parties to “return any excess amounts to the extent necessary to comply with the final determination . . .” 17 U.S.C. § 801(b)(3)(C)(i)-(iv). The Allocation Phase Parties are also willing to agree to the same repayment terms in connection with the 2015-17 Further Distribution.

In light of the Allocation Phase Parties' settlement of all Allocation Phase issues concerning the 2015-17 satellite royalty funds, and MGC's failure to raise a reasonable objection to the 2015-17 Further Distribution, the Judges should order the Further Distribution at the earliest possible time. The Judges' decisions support further distribution of all satellite royalties that the Judges determine are no longer in controversy following settlement. 2004-09 Distribution Order; Distribution Order, Nos. 2008-5 CRB SD 1999-2000 and 2005-2 CRB SD 2001-2003 (Dec. 8, 2008).

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Dated: April 27, 2022

## Proof of Delivery

I hereby certify that on Wednesday, April 27, 2022, I provided a true and correct copy of the Motion for Leave to Submit Reply to the following:

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Multigroup Claimants, represented by Brian D Boydston, served via E-Service at brianb@ix.netcom.com

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